

SENATE No. 1352

The Commonwealth of Massachusetts

PRESENTED BY:

Marc R. Pacheco

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the enrollment into the state retirement system of current members of the optional retirement program.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Marc R. Pacheco</i>	
<i>David B. Sullivan</i>	<i>6th Bristol</i>
<i>Robert M. Koczera</i>	<i>11th Bristol</i>
<i>Cleon H. Turner</i>	<i>1st Barnstable</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>

SENATE No. 1352

By Mr. Pacheco, petition (accompanied by bill, Senate, No. 1352) of Provost, Turner, Koczera and other members of the General Court for legislation relative to the enrollment into the state retirement system of current members of the optional retirement program [Joint Committee on Public Service].

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to the enrollment into the state retirement system of current members of the optional retirement program.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 32, section 4, subdivision 1 is hereby amended by adding the
2 following new subsection: -

3 (t) (i) Within twenty (20) days of the effective date of this act, the department of higher
4 education and the state retirement board shall request of the Internal Revenue Service the
5 necessary letters of determination and/or ruling on whether the provisions of this bill may be
6 implemented without violating subsection (a) of section 401 of the Internal Revenue Code of
7 1986.

8 (ii) If the Internal Revenue Service affirms that this act complies with said subsection (a)
9 of said section 401 of the Internal Revenue code, any active member of the optional retirement
10 program established by subsection (3) of section 40 of Chapter 15A of the General Laws shall be
11 eligible, notwithstanding any general or special law to the contrary, to enroll in the state

12 employee retirement system, governed by Chapter 32 of the General Laws, and shall be eligible
13 to purchase as creditable service in the state employee retirement system the years, including
14 partial years, of membership in the optional retirement system. Years of membership in the
15 optional retirement program shall include a member's years, if any, in the state retirement system
16 that preceded the member's joining the optional retirement program. Within thirty (30) days of
17 such favorable letter or ruling, the department of higher education shall notify active members of
18 the optional retirement program of such eligibility.

19 (iii) Within thirty (30) days of receipt by an active member of the optional retirement
20 program of the notice of eligibility from the department of higher education, such member may
21 request that the state retirement board provide the member with a statement of the cost of
22 purchasing as creditable service in the state employee retirement system the years of membership
23 in the optional retirement system as defined in paragraph (ii), above. The state retirement board
24 shall provide to the member within thirty (30) days of the request, the cost statement so
25 requested. The cost of such purchase shall be an amount equal to the contributions such member
26 would have paid into the state employee retirement system for the years of membership in the
27 optional retirement program as defined in paragraph (ii), above, plus actuarial-assumed interest.
28 The cost statement shall include the cost of an installment plan for payment. The member shall
29 not be required to purchase as creditable service all or any of his or her years in the optional
30 retirement program, however, the years so purchased shall count toward vesting in the state
31 employee retirement system.

32 (iv) Such member of the optional retirement program may transfer all or a portion of the
33 member's optional retirement program account to the state employee retirement system in order
34 to purchase creditable service in the state employee retirement system. Should the member leave

35 a balance in the optional retirement program account, the member's optional retirement program
36 status shall become inactive. Should such member liquidate the optional retirement account, the
37 optional retirement account shall be terminated. The purchase amount may be submitted in one
38 lump sum or through an installment arrangement established by the state employee retirement
39 board.

40 (v) Within one hundred and eighty (180) days of receipt from the board of retirement of
41 the cost statement, an active member of the optional retirement program who elects to transfer to
42 the state employee retirement system shall submit to the state retirement board an application for
43 enrollment in the state employee retirement system. The effective date of transfer to the state
44 employee retirement system will be the date upon which such member submits the purchase
45 amount in one lump sum or the date upon which such member makes the first payment pursuant
46 to the installment arrangement established by the state employee retirement board, as the case
47 may be. The effective start date of participation in the state employee retirement system shall be
48 determined by the number of years the member elects to purchase upon transfer to the state
49 employee retirement system. If such member elects not to purchase creditable service for the
50 years enrolled in the optional retirement program, the effective date of participation will be the
51 date upon which the member submits the application to the state retirement board for enrollment
52 in the state employee retirement system.

53 (vi) Should the member of the optional retirement program elect to participate in the state
54 employee retirement system, such member shall make contributions to the state employee
55 retirement system at the rate the member contributed to the optional retirement program.

56 (vii) Any elections under this section shall be limited to current active members of the
57 optional retirement program and shall be for one time, only; provided, however, that any
58 community college, state university or University of Massachusetts faculty member who does
59 not hold tenure on the effective date of this act or who is hired after the effective date of this act,
60 shall be permitted to postpone election to enroll in either the state employee retirement system or
61 the optional retirement program until acquisition of tenure, with timelines set out in this section
62 to commence from the date of such member's tenure acquisition; and provided, further, that all
63 employees other than faculty in the community colleges, the state university system and the
64 University of Massachusetts shall, if eligible for enrollment in the state employee retirement
65 system, be eligible to enroll, in the alternative, in the optional retirement program. Community
66 college, state university and University of Massachusetts employees other than faculty in the
67 state employee retirement system on the effective date of this act, and who have seven (7) or
68 more years of creditable service, shall be eligible to transfer to the optional retirement program
69 under the same terms, regardless of vesting, as employees of the community colleges, the state
70 colleges and the University of Massachusetts transferred to the optional retirement program at
71 the time of its establishment. Community college, state university and University of
72 Massachusetts employees other than faculty who have fewer than seven (7) years of employment
73 in the college or university or who are hired after the effective date of this act, shall be permitted
74 to postpone election to enroll in the state employee retirement system or the optional retirement
75 program until completion of seven (7) years of employment in the college or university, with
76 timelines set out in this section to commence from the date of such member's completion of
77 seven (7) years of employment.